

512.58 SOUTH CAROLINA WAIVER AND COST RECOVERY PROCEDURES

1. The State Conservationist delegates authority to the Assistant State Conservationist (ASTC) Field Operations to fully implement contract responsibilities according to Part 512 of the Conservation Programs Manual (440) as related to waivers and cost recovery. This includes the authority to waive part or all of the cost recovery following the procedures outlined in this document.
2. Waivers will be approved according to the guidelines as stated in section 512.23(c) "*Starting Practices Included in the CPC;*" section 512.23(d) "*Retaining Eligibility;*" and section 512.45 (c) "*Cost Share Practice Requirements.*"
3. South Carolina State Conservationist clarified priority contract years for cost recovery. 1997-2003, no liquidated damages pursued, 2004 to Present, liquidated damages pursued. Cost share assistance plus interest pursued in accordance with national policy.
4. ASTC – FO sends out a certified letter to contract holders who have potential cost-recovery. Letter includes a statement regarding cost recovery amount (references the 20% liquidated damages). Letter also invites communication regarding opportunities to document hardship (if applicable) that the producer may have experienced, and encourages the producer to return a call or to schedule a meeting with the ASTC-FO to discuss contract cancellation/termination.
5. ASTC-FO has discussion with producer; either in person or via phone. ASTC-FO explains the CCC-1200 Appendix issues and regulations related to cost recovery. They will schedule visits with producer to clarify issues which may affect the amount of cost recovery (whether or not cost recovery will be reduced).

This includes:

- Hardship
- Good Faith Efforts on Part of Producer --- What effort has the producer taken to successfully implement the contract?
- Good Faith Efforts on Part of NRCS --- Has NRCS done everything possible to help this contract to succeed? Engineering?, Modification?, Extension/Waivers, Letters? Status Reviews? Etc.
- File Documentation (NRCS discusses; not producer) --- File documentation is evaluated from the perspective if it were to go to appeal
- Other Circumstances

Each of the four (4) categories are discussed with both participant and NRCS Field Office staff (separate discussions; not together); recommendations are as to whether each category has been satisfactorily addressed. In other words, if the producer has demonstrated good faith, he is given

credit. If NRCS has done less than satisfactory performances in contract servicing, the recovery is also reduced. The attached table will be used in assessing cost recovery amounts.

Generally, there is an agreement (verbal) between the ASTC – FO and the participant as to what action will be taken and a consensus is reached on the dollar amount using the table as a guide.

The ASTC-FO sends a letter confirming the verbal agreement and a timetable to submit recovery check. If payment has not been received by the timetable agreed, a certified letter with the adverse decision and appeal rights will be sent by the ASTC-FO to begin the collection process.